

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

In re:

Case No. 13-21977

MICHAEL B. WHITE and
DARLA K. WHITE,

Chapter 7

Debtors.

Honorable Daniel S. Opperman

ORDER REGARDING DEBTOR MICHAEL WHITE'S SUPPLEMENT TO
MOTION FOR CLARIFICATION (DOCKET NO. 912)

The Court issued an Opinion Regarding Debtor's Motion for Clarification of Exemptions and Trustee's Objection to Exemptions on January 10, 2020. In this Opinion, the court requested that Debtor Michael White "account for all money and property he has received as a result of his Section 522(d)(5) exemption." Debtor filed the requested supplement, to which the Chapter 7 Trustee Collene Corcoran responded. A hearing was held, and the Court now issues this Order.

The Court first addresses the Trustee's position that Debtor collected \$6,825 in post-petition in rents, which the Court characterizes in its January 10, 2020 Opinion as a fact admitted by Debtor. Debtor disputed this in his supplemental pleading and at the hearing. Accordingly, the Court makes no finding as to a potential offset of for any rents collected by Debtor post-petition (which may be further offset by Debtor for expenses incurred). The supplemental pleadings demonstrate issues of fact exist as to this issue, which may necessitate further proofs be submitted if the parties wish to pursue it.

In the Supplement, Debtor asserts that he has a remaining balance of \$11,590.00 in unused exemptions under 11 U.S.C. § 522(d)(5). Thus, Debtor asserts that he has sufficient remaining exemption availability for the Trustee to turnover the \$5,250.00 in post-petition rents collected by and currently held by the Trustee. These rents have been the subject of numerous pleadings and hearings.

The Trustee responds, directing the Court to its December 16, 2019 Order abandoning certain assets to the Debtor. After entry of this Order, amendments were made by Debtor to his exemptions. The Trustee argues that while the Debtor did provide the requested information in his supplemental pleading, to rely upon such is inequitable. This is due to Debtor's numerous amendments to his exemptions, as well as changing from federal exemptions to state exemptions and back to federal exemptions. The Trustee asserts Debtor's current claim of \$11,590 in available exemptions should be much lower, if not disallowed entirely, because a debtor should not be allowed to amend to add new exemptions by utilizing exemption funds made available by assets previously exempted and then abandoned by the estate due to lack of equity.

The Court is cognizant of the general rule that debtors are entitled to all validly claimed exemptions and are allowed to amend their schedules freely. *Law v. Siegel*, 571 U.S. 415 (2014). Further, the Court agrees that a trustee would be correct to abandon assets back to a debtor when he or she determines there is no equity because of a debtor's exemption. However, the Court is concerned with the potential for abuse and the possibility of bad faith when a debtor amends exemptions by using exemption funds made available due to assets previously abandoned. Accordingly, the Court requires further detail in a table format, of items of property that have been abandoned by the Trustee due to little or no equity and the amount of exemption claimed in these assets, if any, as well as all amended exemptions claimed by Debtor. This should include a breakdown of the extent to which funds became available for amended exemptions due to abandonment. The Court also requires briefing on how these types of amendments to exemptions should or should not be permitted under *Law v. Siegel*.

ACCORDINGLY, IT IS HEREBY ORDERED that the Trustee must file the above-indicated summary and Brief by **October 9, 2020**.

IT IS FURTHER ORDERED that Debtor must file a responsive pleading to the Trustee's pleading on or before **October 23, 2020**.

Signed on September 30, 2020



/s/ Daniel S. Opperman

Daniel S. Opperman
United States Bankruptcy Judge